



January 25, 2008

HOUSE BILL No. 1153

DIGEST OF HB 1153 (Updated January 23, 2008 12:00 pm - DI 14)

Citations Affected: IC 4-32.2; IC 4-36; IC 6-2.5; IC 6-8.1; IC 7.1-3; IC 35-45; noncode.

Synopsis: Gaming in bars. Authorizes raffles, pull tabs, punchboards, and tip boards in establishments licensed to sell alcoholic beverages to customers for consumption on the licensed premises. Provides that the authorized sale of pull tabs, punchboards, and tip boards is exempt from the state gross retail tax. Specifies that the pull tab provisions do not apply to slot machine wagering at racetracks. Provides that fees paid by a retailer must be distributed to the county in which the retailer is located for allocation among the county and the cities, towns, and school corporations located in the county. Provides that excise taxes remitted by a distributor or manufacturer must be distributed to the home county of the retailer purchasing the pull tabs, punchboards, or tip boards. Requires the taxes to be allocated among the county and the cities, towns, and school corporations located in the county. Provides that the allocations may be used for any lawful purpose. Requires a person who holds a retailers license or permit to sell alcoholic beverages for consumption on the premises to procure and maintain a policy of liability insurance after December 31, 2008, to cover the person's liability for damages arising out of the person's sale of alcoholic beverages. Provides a procedure for a person who holds a license or permit to obtain a certificate of self-insurance from the department of insurance as an alternative to procuring insurance. Requires the commissioner of the department of insurance to adopt rules to establish minimum amounts of insurance coverage and self-insurance. Makes an appropriation.

Effective: Upon passage; July 1, 2008.

Tyler, GiaQuinta, Bell

January 10, 2008, read first time and referred to Committee on Public Policy.
January 24, 2008, amended, reported — Do Pass.

HB 1153—LS 6670/DI 92+



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January 25, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1153

A BILL FOR AN ACT to amend the Indiana Code concerning gaming and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-32.2-1-1, AS AMENDED BY P.L.227-2007,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 1. (a) This article applies only to a qualified
4 organization.

5 (b) This article applies only to the following approved gambling
6 events conducted as fundraising activities by qualified organizations:

7 (1) Bingo events, charity game nights, door prize events, raffle
8 events, festivals, and other gaming events approved by the
9 commission.

10 (2) The sale of pull tabs, punchboards, and tip boards:

11 (A) at bingo events, charity game nights, door prize events,
12 raffle events, and festivals conducted by qualified
13 organizations; or

14 (B) at any time on the premises owned or leased by a qualified
15 organization and regularly used for the activities of the
16 qualified organization.

17 This article does not apply to any other sale of pull tabs,

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punchboards, and tip boards.

(c) This article does not apply to a promotion offer subject to IC 24-8.

(d) This article does not apply to the following:

(1) A type II gambling game authorized by IC 4-36.

(2) A raffle or other gambling game authorized by IC 4-36-5-1(b).

SECTION 2. IC 4-36 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 36. TYPE II GAMING IN ESTABLISHMENTS LICENSED TO SELL ALCOHOLIC BEVERAGES

Chapter 1. General Provisions

Sec. 1. Under 15 U.S.C. 1172, approved January 2, 1951, the state of Indiana, acting by and through the elected and qualified members of the legislature, declares that the state is exempt from 15 U.S.C. 1172.

Sec. 2. All shipments of gambling games authorized under this article to distributors and retailers in Indiana, the registering, recording, and labeling of which have been completed by the manufacturer or dealer in accordance with 15 U.S.C. 1171 through 15 U.S.C. 1178, are legal shipments of gambling devices into the state of Indiana.

Sec. 3. This article does not apply to the following:

(1) The Indiana state lottery established under IC 4-30.

(2) Pari-mutuel horse racing under IC 4-31.

(3) Charity gaming under IC 4-32.2.

(4) Riverboat gambling under IC 4-33.

(5) Slot machine wagering under IC 4-35.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Commission" means the Indiana gaming commission.

Sec. 3. "Deal" means each separate game or series of pull tab tickets with a specific form number and a unique serial number.

Sec. 4. "Department" refers to the department of state revenue.

Sec. 5. "Distributor" means a person licensed to distribute pull tabs, punchboards, and tip boards under IC 4-32.2.

Sec. 6. "Executive director" means the executive director of the Indiana gaming commission appointed under IC 4-33-3-18.

Sec. 7. "Flare" means the board or placard that accompanies each deal of pull tabs on which the following information is

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printed:

- (1) The game name.
- (2) The manufacturer's name or distinctive logo.
- (3) The form number.
- (4) The ticket count.
- (5) The prize structure.
- (6) The cost per play.
- (7) The game serial number.

Sec. 8. "Form number" means the unique number or alphanumeric code that identifies a game's cost per play, ticket count, payout structure, and extended payout structure, if any.

Sec. 9. "Fund" means the type II gaming enforcement fund established by IC 4-36-6-3.

Sec. 10. "Gross receipts" means the total amount of money exchanged for the purchase of raffle tickets, pull tabs, punchboards, and tip boards by type II gaming patrons.

Sec. 11. "Licensed premises" has the meaning set forth in IC 7.1-1-3-20.

Sec. 12. "Licensee" means a person holding a license issued under this article.

Sec. 13. "Manufacturer" means a person licensed to manufacture pull tabs, punchboards, and tip boards under IC 4-32.2.

Sec. 14. "Person" means an individual, a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity.

Sec. 15. "Pull tab" has the meaning set forth in IC 4-32.2-2-22.

Sec. 16. "Punchboard" has the meaning set forth in IC 4-32.2-2-23.

Sec. 17. "Raffle" means the selling of tickets or chances to win a prize awarded through a random drawing.

Sec. 18. "Retailer" means a person that is licensed:

- (1) to sell alcoholic beverages under IC 7.1-3 to customers for consumption on the person's licensed premises; and
- (2) to conduct type II gambling games under a retailer's license issued under IC 4-36-4.

Sec. 19. "Tip board" has the meaning set forth in IC 4-32.2-2-28.

Sec. 20. "Type II gambling game" means a pull tab, punchboard, or tip board game approved by the commission for play under both IC 4-32.2 and this article.

Sec. 21. "Type II gambling operation" means the conduct of

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1 gambling games authorized under this article in a licensed
2 establishment.

3 **Chapter 3. Powers and Duties of the Commission**

4 **Sec. 1. (a) The commission shall supervise and administer type**
5 **II gambling operations conducted in Indiana under this article.**

6 **(b) The commission shall enforce this article.**

7 **(c) The commission may by resolution assign to the executive**
8 **director any duty imposed upon the commission by this article.**

9 **(d) The executive director shall perform the duties assigned to**
10 **the executive director by the commission. The executive director**
11 **may exercise any power conferred upon the commission by this**
12 **article that is consistent with the duties assigned to the executive**
13 **director under subsection (c).**

14 **Sec. 2. For purposes of conducting an investigation or a**
15 **proceeding under this article, the commission may do the**
16 **following:**

17 **(1) Administer oaths.**

18 **(2) Take depositions.**

19 **(3) Issue subpoenas.**

20 **(4) Compel the attendance of witnesses and the production of**
21 **books, papers, documents, and other evidence.**

22 **Sec. 3. (a) The commission may adopt rules under IC 4-22-2 for**
23 **the establishment, implementation, and operation of type II**
24 **gambling games and to ensure that the type II gambling operations**
25 **are consistently operated in a fair and honest manner.**

26 **(b) The commission may adopt emergency rules under**
27 **IC 4-22-2-37.1 for the administration of this article if the**
28 **commission determines that:**

29 **(1) the need for a rule is so immediate and substantial that**
30 **rulemaking procedures under IC 4-22-2-13 through**
31 **IC 4-22-2-36 are inadequate to address the need; and**

32 **(2) an emergency rule is likely to address the need.**

33 **Sec. 4. (a) The commission has the sole authority to issue a**
34 **license to a person authorizing the person to sell, distribute, or**
35 **manufacture type II gambling games under this article.**

36 **(b) The commission may not limit the number of persons**
37 **licensed under this article.**

38 **Chapter 4. Licensing**

39 **Sec. 1. The commission may issue a retailer's license to an**
40 **applicant that satisfies the requirements of this article. A retailer's**
41 **license allows the retailer to conduct type II gaming at only the**
42 **licensed premises specified in the retailer's application under**

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section 3(b)(2) of this chapter. An applicant must obtain a separate retailer's license for each licensed premises on which the applicant wishes to conduct type II gaming.

Sec. 2. (a) To qualify for a retailer's license, a person must operate an establishment licensed under IC 7.1-3 to sell alcoholic beverages to customers for consumption on the person's licensed premises.

(b) Notwithstanding subsection (a), the following may not apply for a retailer's license under this article:

- (1) A person holding a horse track permit under IC 7.1-3-17.7.
- (2) A licensed owner of a riverboat licensed under IC 4-33.
- (3) An operating agent who operates a riverboat in a historic hotel district under IC 4-33.
- (4) A qualified organization (as defined in IC 4-32.2-2-24).
- (5) A person holding a gambling game license issued under IC 4-35-5.

Sec. 3. (a) To obtain a retailer's license, a person must submit an application form to the commission.

(b) An application submitted under this section must include at least the following:

- (1) The name and address of the applicant and of any person holding at least a ten percent (10%) interest in the applicant.
- (2) The name and address of the licensed premises for which the applicant seeks a retailer's license.
- (3) The applicant's consent to credit investigations and criminal record searches.
- (4) Waivers and releases signed by the applicant that the commission believes are necessary to ensure a full and complete review of the application.

(c) An applicant must furnish all information requested by the commission, including financial data and documents, certifications, consents, waivers, and individual histories.

(d) The commission shall review the applications for a retailer's license under this chapter and shall inform each applicant of the commission's decision concerning the issuance of a retailer's license.

Sec. 4. The costs of investigating an applicant for a retailer's license under this chapter shall be paid from the initial license fee paid by the applicant under section 5 of this chapter.

Sec. 5. (a) The commission shall charge the following fees for the issuance of a person's initial annual license under this chapter:

- (1) Two hundred fifty dollars (\$250) for a retailer's license to

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conduct a type II gambling operation in the retailer's licensed premises.

(2) One thousand dollars (\$1,000) for a distributor's license.

(3) One thousand five hundred dollars (\$1,500) for a manufacturer's license.

(b) The commission shall charge the following fees for the renewal of a person's annual license under this chapter:

(1) The amount determined under section 6 of this chapter for a retailer's license.

(2) One thousand dollars (\$1,000) for a distributor's license.

(3) One thousand five hundred dollars (\$1,500) for a manufacturer's license.

Sec. 6. (a) For the purposes of subsection (c), a retailer's adjusted gross revenue is an amount equal to the difference between:

(1) the retailer's total gross revenue from the retailer's type II gambling operations in the preceding year; minus

(2) the sum of any amounts deducted under subsection (b) in the preceding year.

(b) To determine the amount of a retailer's adjusted gross revenue from the retailer's type II gambling operations in the preceding year under subsection (a), the retailer shall subtract the following from the retailer's gross receipts:

(1) An amount equal to the total value of the prizes awarded in the preceding year.

(2) The sum of the purchase prices paid for type II gambling games dispensed in the retailer's type II gambling operation in the preceding year.

(3) An amount equal to the amount of license fees paid by the retailer in the preceding year.

(c) The license fee that is charged to a retailer that renews the license must be based on the adjusted gross revenue from the retailer's type II gambling operations in the preceding year, according to the following schedule:

| Class | Adjusted Gross Revenues | | Fee |
|-------|-------------------------|---------------|----------|
| | At Least | But Less Than | |
| A | \$ 0 | \$ 15,000 | \$ 50 |
| B | \$ 15,000 | \$ 25,000 | \$ 100 |
| C | \$ 25,000 | \$ 50,000 | \$ 300 |
| D | \$ 50,000 | \$ 75,000 | \$ 400 |
| E | \$ 75,000 | \$ 100,000 | \$ 700 |
| F | \$ 100,000 | \$ 150,000 | \$ 1,000 |



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|----|---|--------------|--------------|-----------|
| 1 | G | \$ 150,000 | \$ 200,000 | \$ 1,500 |
| 2 | H | \$ 200,000 | \$ 250,000 | \$ 1,800 |
| 3 | I | \$ 250,000 | \$ 300,000 | \$ 2,500 |
| 4 | J | \$ 300,000 | \$ 400,000 | \$ 3,250 |
| 5 | K | \$ 400,000 | \$ 500,000 | \$ 5,000 |
| 6 | L | \$ 500,000 | \$ 750,000 | \$ 6,750 |
| 7 | M | \$ 750,000 | \$ 1,000,000 | \$ 9,000 |
| 8 | N | \$ 1,000,000 | \$ 1,250,000 | \$ 11,000 |
| 9 | O | \$ 1,250,000 | \$ 1,500,000 | \$ 13,000 |
| 10 | P | \$ 1,500,000 | \$ 1,750,000 | \$ 15,000 |
| 11 | Q | \$ 1,750,000 | \$ 2,000,000 | \$ 17,000 |
| 12 | R | \$ 2,000,000 | \$ 2,250,000 | \$ 19,000 |
| 13 | S | \$ 2,250,000 | \$ 2,500,000 | \$ 21,000 |
| 14 | T | \$ 2,500,000 | \$ 3,000,000 | \$ 24,000 |
| 15 | U | \$ 3,000,000 | | \$ 26,000 |

16 Sec. 7. The commission may issue a distributor's license to an
17 applicant who meets the requirements of this article.

18 Sec. 8. The commission may issue a manufacturer's license to an
19 applicant who meets the requirements of this article.

20 Sec. 9. (a) To obtain a distributor's license or a manufacturer's
21 license, a person must submit an application to the commission on
22 a form prescribed by the commission. An applicant shall furnish all
23 information required by the commission.

24 (b) To qualify for a distributor's license or a manufacturer's
25 license under this chapter, a person must also be a licensed
26 distributor or manufacturer under IC 4-32.2.

27 Sec. 10. The commission shall conduct or cause to be conducted
28 a background investigation of each applicant for licensure.

29 Sec. 11. Criminal history record information obtained during
30 the investigation of an individual must be maintained by the
31 commission for the term of the license and for any subsequent
32 license term.

33 Sec. 12. The commission may require that an application or
34 other document submitted by an applicant or a licensee must be
35 sworn to or affirmed before a notary public.

36 Sec. 13. The commission may not issue a license to an applicant
37 if any of the following apply:

- 38 (1) The applicant has knowingly made a false statement of
39 material fact to the commission.
- 40 (2) The applicant is found by the commission to lack the
41 necessary financial stability or responsibility for licensure.
- 42 (3) The applicant, if an individual, is less than twenty-one (21)

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years of age on the date on which the application is received by the commission.

(4) The applicant is on the most recent tax warrant list.

(5) The applicant, if an individual, has been convicted of or entered a plea of guilty or nolo contendere to a felony within the ten (10) years preceding the date of the license application, unless the commission determines that:

(A) the individual has been pardoned or the individual's civil rights have been restored;

(B) after the conviction or entry of the plea, the individual has engaged in the kind of law abiding commerce and good citizenship that would reflect well upon the integrity of the commission; or

(C) the individual has terminated a relationship with a person whose actions directly contributed to the conviction or entry of the plea.

(6) The applicant fails to provide all materials requested by the commission.

Sec. 14. Credit and security investigation information submitted in connection with an application for a license under this article is confidential and may not be disclosed except for official purposes under this article or under a judicial order.

Sec. 15. A license issued under this article may not be transferred without prior written approval of the commission.

Sec. 16. If the commission proposes to revoke a license issued under this chapter, the licensee may continue to operate under the license until the commission has made a decision and all administrative appeals have been exhausted by the licensee.

Chapter 5. Type II Gambling Operations

Sec. 1. (a) A retailer may offer the sale of type II gambling games in accordance with this article.

(b) A retailer's license also authorizes a retailer to conduct the following gambling games on the retailer's licensed premises:

(1) Raffles in which the retailer retains the proceeds of the raffle drawing.

(2) Winner take all drawings in which the retailer retains no portion of the amounts wagered.

Sec. 2. A type II gambling game may be sold under this article only on the retailer's licensed premises.

Sec. 3. (a) A retailer that obtains a type II gambling game must obtain the type II gambling game from a distributor licensed by the commission under this article.

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(b) Except as provided in subsection (c), a distributor must obtain at least twenty-five percent (25%) of the type II gambling games purchased by the distributor from a manufacturer that is domiciled in Indiana.

(c) The commission may excuse a distributor from the requirement set forth in subsection (b) if the commission finds that at least one (1) of the following conditions exists:

(1) No manufacturer domiciled in Indiana is licensed under this article.

(2) No manufacturer domiciled in Indiana is in good standing with the requirements of this article.

(3) All of the licensed manufacturers domiciled in Indiana also hold distributor's licenses.

Sec. 4. A retailer shall maintain accurate records of all financial aspects of the retailer's type II gambling operation. A retailer shall make accurate reports of all financial aspects of the type II gambling operation to the commission within the time established by the commission. The commission shall prescribe forms for this purpose.

Sec. 5. (a) The total prizes awarded for one (1) type II gambling game may not exceed five thousand dollars (\$5,000).

(b) A single prize awarded for one (1) winning ticket in a type II gambling game may not exceed five hundred ninety-nine dollars (\$599).

(c) The selling price for one (1) ticket for a type II gambling game may not exceed one dollar (\$1). Tickets sold for less than one dollar (\$1) must be sold for a price specified in section 6(b) of this chapter.

Sec. 6. (a) Except as provided in subsection (b), a type II gambling game must pay out at least seventy-five percent (75%) and not more than one hundred percent (100%) of the amount wagered.

(b) This subsection applies only to a type II gambling game ticket that is sold for less than one dollar (\$1). A type II gambling game subject to this subsection must comply with the following minimum payout percentages:

| Purchase Price | Minimum Payout Percentage |
|--|---------------------------|
| \$0.10 | 60% |
| \$0.25 | 65% |
| Three (3) tickets for one dollar (\$1) | 65% |
| \$0.50 | 70% |

(c) A type II gambling game's pay out percentage must be stated

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on the ticket or on the accompanying flare.

Sec. 7. The following persons may not play or participate in any manner in a type II gambling game:

- (1) An employee of the commission.
- (2) A person less than twenty-one (21) years of age.
- (3) The retailer offering the type II gambling game.
- (4) A person employed by the retailer offering the type II gambling game.

Chapter 6. Type II Gaming Enforcement Fund

Sec. 1. As used in this chapter, "county resident student" means a student who:

- (1) resides in a county that makes a distribution required by section 7(a)(2) or 8(a)(2) of this chapter; and
- (2) is enrolled in a school corporation that has at least some territory within the county in which the student resides.

Sec. 2. As used in this chapter, "school corporation" has the meaning set forth in IC 36-1-2-17.

Sec. 3. The type II gaming enforcement fund is established. The commission shall administer the fund.

Sec. 4. The fees, civil penalties, and taxes collected by the commission or the department under this article shall be deposited in the fund.

Sec. 5. Money in the fund does not revert to the state general fund at the end of a state fiscal year. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

Sec. 6. There is appropriated annually to the commission from the fund an amount sufficient to cover the costs incurred by the commission for the purposes specified in this article.

Sec. 7. (a) After funds are appropriated under section 6 of this chapter, each month the treasurer of state shall distribute the fees paid by a retailer under this article in the previous month to the county treasurer of the county in which the retailer is located for distribution as follows:

- (1) Two-thirds (2/3) for allocation among the county and the cities and towns located in the county.
- (2) One-third (1/3) for allocation among the school corporations located in the county.

(b) The county auditor shall distribute the money received by the county for allocation under subsection (a)(1) as follows:

- (1) To each city located in the county, according to the ratio

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the city's population bears to the total population of the county.

(2) To each town located in the county, according to the ratio the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

(c) The money received by the county for allocation under subsection (a)(2) must be divided among the school corporations on a pro rata basis according to the ratio the number of county resident students enrolled in each school corporation bears to the total number of county resident students enrolled in the school corporations located in the county. Revenue received by a school corporation under this section is considered miscellaneous revenue.

(d) Money allocated under this section to a county, city, town, or school corporation may be used for any lawful purpose.

Sec. 8. (a) After funds are appropriated under section 6 of this chapter, each month the treasurer of state shall distribute the amount certified under IC 4-36-10-8 for a particular county to the county treasurer of that county for distribution as follows:

(1) Two-thirds ($2/3$) for allocation among the county and the cities and towns located in the county.

(2) One-third ($1/3$) for allocation among the school corporations located in the county.

(b) The county auditor shall distribute the money received by the county for allocation under subsection (a)(1) as follows:

(1) To each city located in the county, according to the ratio the city's population bears to the total population of the county.

(2) To each town located in the county, according to the ratio the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

(c) The money received by the county for allocation under subsection (a)(2) must be divided among the school corporations on a pro rata basis according to the ratio the number of county resident students enrolled in each school corporation bears to the total number of county resident students enrolled in the school corporations located in the county. Revenue received by a school corporation under this section is considered miscellaneous revenue.

(d) Money allocated under this section to a county, city, town, or

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1 school corporation may be used for any lawful purpose.

2 **Chapter 7. Penalties**

3 **Sec. 1. (a) The commission may suspend or revoke the license of**
 4 **or levy a civil penalty against a licensee for any of the following:**

5 (1) Violation of a provision of this article or of a rule of the
 6 commission.

7 (2) Failure to accurately account for type II gambling games.

8 (3) Failure to accurately account for sales proceeds from type
 9 II gambling operations.

10 (4) Commission of a fraud, deceit, or misrepresentation.

11 (5) Conduct prejudicial to public confidence in the
 12 commission.

13 (b) If a violation is of a continuing nature, the commission may
 14 impose a civil penalty on a licensee for each day the violation
 15 continues.

16 **Sec. 2. The commission may impose on a licensee the following**
 17 **civil penalties:**

18 (1) Not more than one thousand dollars (\$1,000) for the first
 19 violation.

20 (2) Not more than two thousand five hundred dollars (\$2,500)
 21 for the second violation.

22 (3) Not more than five thousand dollars (\$5,000) for each
 23 additional violation.

24 **Sec. 3. In addition to the penalties described in section 2 of this**
 25 **chapter, the commission may do all or any of the following:**

26 (1) Suspend or revoke a license issued under this article.

27 (2) Lengthen a period of suspension of a license issued under
 28 this article.

29 (3) Impose an additional civil penalty of not more than one
 30 hundred dollars (\$100) for each day a civil penalty goes
 31 unpaid.

32 **Sec. 4. Except as provided in section 5 of this chapter, a person**
 33 **who violates this article commits a Class A infraction.**

34 **Sec. 5. A person who knowingly or intentionally:**

35 (1) makes a false statement on an application submitted under
 36 this article;

37 (2) operates a type II gambling operation in which wagering
 38 is conducted or is to be conducted in a manner other than the
 39 manner required under this article;

40 (3) permits a person less than twenty-one (21) years of age to
 41 play a type II gambling game; or

42 (4) wagers or accepts a wager on a type II gambling game at

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1 a location other than a retailer's licensed premises;
2 commits a Class A misdemeanor.

3 **Chapter 8. Security**

4 **Sec. 1. The commission is responsible for security matters under**
5 **this article. The commission may employ individuals who are**
6 **necessary to carry out this chapter.**

7 **Sec. 2. The commission may do any of the following:**

8 (1) Investigate an alleged violation of this article.

9 (2) Enter the following premises for the performance of the
10 commission's lawful duties:

11 (A) A retailer's licensed premises.

12 (B) A place in which type II gambling games are being
13 purchased, sold, manufactured, printed, or stored.

14 (3) Take necessary equipment from the premises referred to
15 in subdivision (3) for further investigation.

16 (4) Obtain full access to all financial records of the alleged
17 violator on request.

18 (5) If there is a reason to believe that a violation has occurred,
19 search and inspect the premises where the violation is alleged
20 to have occurred or is occurring. A search under this
21 subdivision may not be conducted unless a warrant has first
22 been obtained by the executive director. A contract entered
23 into by the commission may not include a provision allowing
24 for warrantless searches. A warrant may be obtained in the
25 county in which the search will be conducted or in Marion
26 County.

27 (6) Seize or take possession of:

28 (A) papers;

29 (B) records;

30 (C) tickets;

31 (D) currency; or

32 (E) other items;

33 related to an alleged violation.

34 **Sec. 3. The commission shall conduct investigations necessary**
35 **to ensure the security and integrity of the operation of type II**
36 **gambling games under this article. The commission may conduct**
37 **investigations of the following:**

38 (1) Retailers.

39 (2) Applicants for licenses issued under this article.

40 (3) Licensed manufacturers and distributors.

41 (4) Employees of the commission under this article.

42 (5) Applicants for contracts or employment with the

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commission under this article.

Sec. 4. (a) The state police department shall, at the request of the executive director, provide the following:

(1) Assistance in obtaining criminal history information relevant to investigations required for honest, secure, exemplary operations under this article.

(2) Any other assistance requested by the executive director and agreed to by the superintendent of the state police department.

(b) Any other state agency, including the alcohol and tobacco commission and the Indiana professional licensing agency, shall upon request provide the executive director with information relevant to an investigation conducted under this article.

Chapter 9. State Preemption

Sec. 1. Type II gambling games other than those authorized by the commission under this article are not allowed in Indiana.

Sec. 2. Local taxes, regardless of type, may not be imposed on the operations of the commission under this article or on the sale of type II gambling games under this article.

Sec. 3. (a) Local governmental authority concerning the following is preempted by the state under this article:

(1) All matters relating to the operation of type II gambling games.

(2) All matters relating to the possession, transportation, advertising, sale, manufacture, printing, storing, or distribution of type II gambling games.

(b) A county, a municipality, or another political subdivision of the state may not enact an ordinance relating to the commission's operations authorized by this article.

Sec. 4. A state or local law providing a penalty for or a restriction or prohibition against the operation of type II gambling games or the possession, manufacture, transportation, distribution, advertising, printing, storing, or sale of type II gambling games does not apply to the operation of type II gambling games under this article or to the possession, manufacture, transportation, distribution, advertising, printing, storing, or sale of type II gambling games under this article.

Chapter 10. Type II Gambling Game Excise Tax

Sec. 1. An excise tax is imposed on the distribution of type II gambling games in the amount of ten percent (10%) of the price paid by the retailer that purchases the type II gambling games.

Sec. 2. A licensed entity distributing pull tabs, punchboards, or

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tip boards under this article is liable for the tax. The tax is imposed at the time the licensed entity:

- (1) brings or causes the type II gambling games to be brought into Indiana for distribution;
- (2) distributes type II gambling games in Indiana; or
- (3) transports type II gambling games to retailers in Indiana for resale by those retailers in accordance with this article.

Sec. 3. The department shall establish procedures by which each licensee must account for the following:

- (1) The tax collected under this chapter by the licensee.
- (2) The type II gambling games sold by the licensee.
- (3) The funds received for the sale of type II gambling games by the licensee.
- (4) The address of each retailer that purchased pull tabs, punchboards, or tip boards from the licensee in the previous calendar month.

Sec. 4. A payment by a licensee to the department may not be in cash. All payments must be in the form of a check, a draft, an electronic funds transfer, or another financial instrument authorized by the department. The department may require a licensee to establish a separate electronic funds transfer account to make payments to the department.

Sec. 5. All taxes imposed on a licensee under this chapter shall be remitted to the department on a monthly basis at the times and as directed by the department. The department is responsible for all administrative functions related to the receipt of funds. The department may require a licensee to file with the department reports of the licensee's receipts and transactions in the sale of type II gambling games. The department shall prescribe the form of the reports and the information to be contained in the reports.

Sec. 6. The department may at any time perform an audit of the books and records of a licensee to ensure compliance with this article.

Sec. 7. The department shall deposit all taxes collected under this chapter in the type II gaming enforcement fund.

Sec. 8. Each month the department shall calculate for each county the amount of taxes remitted under this chapter in the previous month that are attributable to the distribution of pull tabs, punchboards, and tip boards to retailers located in the county. Subject to the amounts appropriated to the commission under IC 4-36-6-6, the department shall certify to the treasurer of state and the county treasurer in each county the amount of the

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1 **taxes remitted in the previous month that the county is entitled to**
 2 **receive under IC 4-36-6-8.**

3 SECTION 3. IC 6-2.5-5-43 IS ADDED TO THE INDIANA CODE
 4 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 5 1, 2008]: **Sec. 43. Sales of type II gambling games authorized by**
 6 **IC 4-36 are exempt from the state gross retail tax.**

7 SECTION 4. IC 6-8.1-1-1, AS AMENDED BY P.L.233-2007,
 8 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2008]: Sec. 1. "Listed taxes" or "taxes" includes only the
 10 pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat
 11 admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13);
 12 the slot machine wagering tax (IC 4-35-8); **the type II gambling game**
 13 **excise tax (IC 4-36-10)**; the gross income tax (IC 6-2.1) (repealed); the
 14 utility receipts and utility services use taxes (IC 6-2.3); the state gross
 15 retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3);
 16 the supplemental net income tax (IC 6-3-8) (repealed); the county
 17 adjusted gross income tax (IC 6-3.5-1.1); the county option income tax
 18 (IC 6-3.5-6); the county economic development income tax
 19 (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto
 20 rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the
 21 gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1);
 22 the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1);
 23 a motor fuel tax collected under a reciprocal agreement under
 24 IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial
 25 vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax
 26 (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax
 27 (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax
 28 (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise
 29 tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various
 30 innkeeper's taxes (IC 6-9); the various food and beverage taxes
 31 (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil
 32 inspection fee (IC 16-44-2); the emergency and hazardous chemical
 33 inventory form fee (IC 6-6-10); the penalties assessed for oversize
 34 vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for
 35 overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage
 36 tank fee (IC 13-23); the solid waste management fee (IC 13-20-22);
 37 and any other tax or fee that the department is required to collect or
 38 administer.

39 SECTION 5. IC 7.1-3-27 IS ADDED TO THE INDIANA CODE
 40 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 41 UPON PASSAGE]:

42 **Chapter 27. Liability Insurance**

HB 1153—LS 6670/DI 92+



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1 **Sec. 1. Except as provided in section 2 of this chapter, a person**
 2 **who:**

3 **(1) holds a retailer license or permit; and**

4 **(2) sells alcoholic beverages for consumption on the licensed**
 5 **or permitted premises;**

6 **shall procure and, after December 31, 2008, continuously maintain**
 7 **a policy of liability insurance to cover the person's liability for**
 8 **damages arising out of the person's sale of alcoholic beverages for**
 9 **consumption on the licensed premises.**

10 **Sec. 2. (a) A person described in section 1 of this chapter is not**
 11 **required to maintain liability insurance under section 1 of this**
 12 **chapter if the person holds a certificate of self-insurance issued**
 13 **under this section.**

14 **(b) The department of insurance may, upon the application of**
 15 **a person described in section 1 of this chapter, issue to the person**
 16 **a certificate of self-insurance if the department of insurance is**
 17 **satisfied that the person making the application possesses and will**
 18 **continue to possess the ability to pay a judgment obtained against**
 19 **the person for damages arising out of the person's sale of alcoholic**
 20 **beverages for consumption on the licensed premises.**

21 **Sec. 3. The minimum amounts of insurance coverage or**
 22 **self-insurance required under this chapter shall be established in**
 23 **rules adopted by the insurance commissioner under section 5 of**
 24 **this chapter.**

25 **Sec. 4. A person who violates this chapter is subject to the**
 26 **penalties set forth in IC 7.1-3-23.**

27 **Sec. 5. The insurance commissioner shall adopt rules under**
 28 **IC 4-22-2 to implement this chapter.**

29 **SECTION 6. IC 35-45-5-12 IS ADDED TO THE INDIANA CODE**
 30 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 31 **1, 2008]: Sec. 12. This chapter does not apply to the following**
 32 **gambling games licensed or authorized under IC 4-36:**

33 **(1) Raffles.**

34 **(2) Winner take all drawings.**

35 **(3) Type II gambling games.**

36 **SECTION 7. [EFFECTIVE UPON PASSAGE] (a) The insurance**
 37 **commissioner appointed under IC 27-1-1-2 shall adopt rules under**
 38 **IC 4-22-2 to implement IC 7.1-3-27, as added by this act, before**
 39 **January 1, 2009.**

40 **(b) This SECTION expires January 2, 2009.**

41 **SECTION 8. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1153, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 28 and 29, begin a new line block indented and insert:

"(5) Slot machine wagering under IC 4-35."

Page 2, between lines 37 and 38, begin a new paragraph and insert:

"Sec. 6. "Executive director" means the executive director of the Indiana gaming commission appointed under IC 4-33-3-18."

Page 2, line 38, delete "6." and insert "7."

Page 3, line 6, delete "7." and insert "8."

Page 3, line 9, delete "8." and insert "9."

Page 3, line 10, delete "IC 4-36-6-1." and insert "IC 4-36-6-3."

Page 3, line 11, delete "9." and insert "10."

Page 3, line 14, delete "10." and insert "11."

Page 3, line 16, delete "11." and insert "12."

Page 3, line 18, delete "12." and insert "13."

Page 3, line 21, delete "13." and insert "14."

Page 3, line 24, delete "14." and insert "15."

Page 3, line 25, delete "15." and insert "16."

Page 3, line 27, delete "16." and insert "17."

Page 3, line 29, delete "17." and insert "18."

Page 3, line 34, delete "18." and insert "19."

Page 3, line 36, delete "19." and insert "20."

Page 3, line 39, delete "20." and insert "21."

Page 4, between lines 3 and 4, begin a new paragraph and insert:

"(c) The commission may by resolution assign to the executive director any duty imposed upon the commission by this article.

(d) The executive director shall perform the duties assigned to the executive director by the commission. The executive director may exercise any power conferred upon the commission by this article that is consistent with the duties assigned to the executive director under subsection (c)."

Page 4, line 12, after "3." insert "(a)".

Page 4, between lines 15 and 16, begin a new paragraph and insert:

"(b) The commission may adopt emergency rules under IC 4-22-2-37.1 for the administration of this article if the commission determines that:

(1) the need for a rule is so immediate and substantial that

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rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and
(2) an emergency rule is likely to address the need."

Page 4, line 19, delete "qualified".

Page 4, line 23, after "article." insert **"A retailer's license allows the retailer to conduct type II gaming at only the licensed premises specified in the retailer's application under section 3(b)(2) of this chapter. An applicant must obtain a separate retailer's license for each licensed premises on which the applicant wishes to conduct type II gaming."**

Page 4, between lines 34 and 35, begin a new line block indented and insert:

"(5) A person holding a gambling game license issued under IC 4-35-5."

Page 4, between lines 40 and 41, begin a new line block indented and insert:

"(2) The name and address of the licensed premises for which the applicant seeks a retailer's license."

Page 4, line 41, delete "(2)" and insert "(3)".

Page 5, line 1, delete "(3)" and insert "(4)".

Page 9, between lines 21 and 22, begin a new line block indented and insert:

"(3) The retailer offering the type II gambling game.

(4) A person employed by the retailer offering the type II gambling game."

Page 9, between lines 22 and 23, begin a new paragraph and insert:

"Sec. 1. As used in this chapter, "county resident student" means a student who:

(1) resides in a county that makes a distribution required by section 7(a)(2) or 8(a)(2) of this chapter; and

(2) is enrolled in a school corporation that has at least some territory within the county in which the student resides.

Sec. 2. As used in this chapter, "school corporation" has the meaning set forth in IC 36-1-2-17."

Page 9, line 23, delete "1." and insert "3."

Page 9, line 25, delete "2." and insert "4."

Page 9, line 28, delete "3." and insert "5."

Page 9, line 33, delete "4." and insert "6."

Page 9, between lines 35 and 36, begin a new paragraph and insert:

"Sec. 7. (a) After funds are appropriated under section 6 of this chapter, each month the treasurer of state shall distribute the fees paid by a retailer under this article in the previous month to the

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county treasurer of the county in which the retailer is located for distribution as follows:

- (1) Two-thirds (2/3) for allocation among the county and the cities and towns located in the county.
- (2) One-third (1/3) for allocation among the school corporations located in the county.

(b) The county auditor shall distribute the money received by the county for allocation under subsection (a)(1) as follows:

- (1) To each city located in the county, according to the ratio the city's population bears to the total population of the county.
- (2) To each town located in the county, according to the ratio the town's population bears to the total population of the county.
- (3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

(c) The money received by the county for allocation under subsection (a)(2) must be divided among the school corporations on a pro rata basis according to the ratio the number of county resident students enrolled in each school corporation bears to the total number of county resident students enrolled in the school corporations located in the county. Revenue received by a school corporation under this section is considered miscellaneous revenue.

(d) Money allocated under this section to a county, city, town, or school corporation may be used for any lawful purpose.

Sec. 8. (a) After funds are appropriated under section 6 of this chapter, each month the treasurer of state shall distribute the amount certified under IC 4-36-10-8 for a particular county to the county treasurer of that county for distribution as follows:

- (1) Two-thirds (2/3) for allocation among the county and the cities and towns located in the county.
- (2) One-third (1/3) for allocation among the school corporations located in the county.

(b) The county auditor shall distribute the money received by the county for allocation under subsection (a)(1) as follows:

- (1) To each city located in the county, according to the ratio the city's population bears to the total population of the county.
- (2) To each town located in the county, according to the ratio the town's population bears to the total population of the county.
- (3) After the distributions required in subdivisions (1) and (2)

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are made, the remainder shall be retained by the county.

(c) The money received by the county for allocation under subsection (a)(2) must be divided among the school corporations on a pro rata basis according to the ratio the number of county resident students enrolled in each school corporation bears to the total number of county resident students enrolled in the school corporations located in the county. Revenue received by a school corporation under this section is considered miscellaneous revenue.

(d) Money allocated under this section to a county, city, town, or school corporation may be used for any lawful purpose."

Page 10, line 39, delete "may, with the approval of the" and insert "may".

Page 10, line 40, delete "governor,".

Page 11, delete lines 2 through 3.

Page 11, line 4, delete "(3)" and insert "(2)".

Page 11, line 9, delete "(4)" and insert "(3)".

Page 11, line 11, delete "(5)" and insert "(4)".

Page 11, line 13, delete "(6)" and insert "(5)".

Page 11, line 17, delete "commissioner." and insert "executive director."

Page 11, line 22, delete "(7)" and insert "(6)".

Page 11, between lines 38 and 39, begin a new paragraph and insert:

"Sec. 4. (a) The state police department shall, at the request of the executive director, provide the following:

(1) Assistance in obtaining criminal history information relevant to investigations required for honest, secure, exemplary operations under this article.

(2) Any other assistance requested by the executive director and agreed to by the superintendent of the state police department.

(b) Any other state agency, including the alcohol and tobacco commission and the Indiana professional licensing agency, shall upon request provide the executive director with information relevant to an investigation conducted under this article."

Page 12, between lines 38 and 39, begin a new line block indented and insert:

"(4) The address of each retailer that purchased pull tabs, punchboards, or tip boards from the licensee in the previous calendar month."

Page 13, line 4, after "department" insert "on a monthly basis".

Page 13, between lines 15 and 16, begin a new paragraph and insert:

"Sec. 8. Each month the department shall calculate for each

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county the amount of taxes remitted under this chapter in the previous month that are attributable to the distribution of pull tabs, punchboards, and tip boards to retailers located in the county. Subject to the amounts appropriated to the commission under IC 4-36-6-6, the department shall certify to the treasurer of state and the county treasurer in each county the amount of the taxes remitted in the previous month that the county is entitled to receive under IC 4-36-6-8."

Page 14, between lines 9 and 10, begin a new paragraph and insert:
 "SECTION 5. IC 7.1-3-27 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 27. Liability Insurance

Sec. 1. Except as provided in section 2 of this chapter, a person who:

- (1) holds a retailer license or permit; and
- (2) sells alcoholic beverages for consumption on the licensed or permitted premises;

shall procure and, after December 31, 2008, continuously maintain a policy of liability insurance to cover the person's liability for damages arising out of the person's sale of alcoholic beverages for consumption on the licensed premises.

Sec. 2. (a) A person described in section 1 of this chapter is not required to maintain liability insurance under section 1 of this chapter if the person holds a certificate of self-insurance issued under this section.

(b) The department of insurance may, upon the application of a person described in section 1 of this chapter, issue to the person a certificate of self-insurance if the department of insurance is satisfied that the person making the application possesses and will continue to possess the ability to pay a judgment obtained against the person for damages arising out of the person's sale of alcoholic beverages for consumption on the licensed premises.

Sec. 3. The minimum amounts of insurance coverage or self-insurance required under this chapter shall be established in rules adopted by the insurance commissioner under section 5 of this chapter.

Sec. 4. A person who violates this chapter is subject to the penalties set forth in IC 7.1-3-23.

Sec. 5. The insurance commissioner shall adopt rules under IC 4-22-2 to implement this chapter."

Page 14, after line 16, begin a new paragraph and insert:

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"SECTION 7. [EFFECTIVE UPON PASSAGE] (a) The insurance commissioner appointed under IC 27-1-1-2 shall adopt rules under IC 4-22-2 to implement IC 7.1-3-27, as added by this act, before January 1, 2009.

(b) This SECTION expires January 2, 2009.

SECTION 8. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1153 as introduced.)

VAN HAAFTEN, Chair

Committee Vote: yeas 9, nays 2.

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